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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,874	03/19/2001	Frank W. Korinek	CM04036H	1260
22917	7590	02/04/2005	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/812,874

Applicant(s)

KORINEK ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-12,15-17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 4,5,13,14 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

#### **Content of Specification**

Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-12, 15-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver (USP 5584049) in view of Doi (USP 5499395).

Regarding claims 1, 10 and 19-20, Weaver disclose a communication system (Fig 1) including a first base transceiver station (BTS) providing communication coverage of a first area (Fig 1, Ref 104) and a second BTS providing communication coverage of a second area (Fig 1, Ref 104), an apparatus for removing the first BTS from the communication system while maintaining communication coverage of both first and second areas (See abstract and col. 10, lines 16-35), the apparatus comprising a first BTS adapted to transmit a first signal having a first

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signal strength (Fig 5, each sector or cell includes a pilot signal which contains a signal strength); a second BTS adapted to transmit a second signal having a second signal strength, the first signal strength of the first signal in the first area being greater than the second signal strength of the second signal in the first area (Fig 5, the pilot strength of the other sector or cell is always less than the pilot strength of the other sector or cell) and decreasing the pilot strength of a base station by adjusting the pilot signal strength (See col. 6, lines 57-65, when adjusting the cell size based on the pilot strength of serving base station and increasing the pilot strength of the targeting base station, the mobiles within the serving cell will switch their communication to the targeting base station, Handoff or Handover and a controller for controlling power level of the attenuators in order to adjusting the cell size, col. 11, lines 27-58). However, Weaver does not disclose a controller responsive to a command to remove the first BTS from the communication system and which issues a command to the first BTS to reduce the first signal strength of the first signal until the second signal strength of the second signal in the first area is greater than the first signal strength of the first signal in the first area to cause a subscriber unit communicatively coupled to a first BTS to remove communicative coupling with the first BTS and establish communicative coupling with the second BTS. In the same field of endeavor, Doi discloses a controller responsive to a command to remove the first BTS from the communication system (Fig 9, Ref 803 for monitoring traffics between the cells and determining that the cell size of base station 801a should be decreased "remove the BTS" being BSC or BTS controller; See col. 7, lines 40-50) and which issues a command to the first BTS to reduce the first signal strength of the first signal until the second signal strength of the second signal in the first area is greater than the first signal strength of the first signal in the first area to cause a subscriber unit

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communicatively coupled to a first BTS to remove communicative coupling with the first BTS and establish communicative coupling with the second BTS (Col. 7, lines 46-50 and col. 8, lines 4-25, the relay control station sends a control signal to instruction the base station 800a to decrease the transmitting power of the pilot signal and a control signal to the other base stations 801b and 801c to increase the transmitting power of the pilot signal of each base station in order to expand each cell size which forces the mobiles of the base station 801a switches the communication to the base station 801b and 801c, See col. 5, lines 40-52 and col. 3, lines 5-42).

Since, Weaver suggests a method and system for removing or replacing a base station for maintenance by resizing the cell size of the base stations without interrupt the communication of the mobiles. Doit suggests a method and system for changing size of the cells in order to obtain a quality signal for the mobiles. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for sending a control signal to base station for adjusting the power level of the pilot signal in order to adjust the cell size as disclosed by Doi into Weaver's system and method. The motivation would have been to obtain a quality signal and prevent the call to be drop at the base station when it shutdown for maintenance or replacing.

Regarding claims 2-3 and 11-12, Weaver and Doi fails to disclose the step of increasing the transmission rate of the active data packet transmission from the first BTS further includes transmitting the active data packet transmission via unused traffic channels normally reserved for voice or data calls. However, the examiner takes an official notice that the advantage of a method and system for using the unused or idle or unallocated or unassigned voice or data channel or slot at the base station for increasing the transmission rate of the active call is well

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known and expected in the art at the time of invention was made to apply it into the system and method of Weaver and Doi because Weaver suggests a method and system for transmitting voice and data between the mobile units in order to reduce a congestion at the base station

Regarding claims 6-7 and 15-16, Weaver and Doi fails to disclose the steps of identifying a malfunction in the operation of the first BTS and issuing a command automatic or manually to remove the first BTS from the communication system. However, the examiner takes an official notice that the advantage of a method and system for using a failure detection system for detecting an abnormal state of the base station and generating an alarm signal to notifying the operation or system so that the operator or system can issue a command to replace the failure device by reconfiguring the cell sizes are well known and expected in the art at the time invention was made to apply it into the system and method of Weaver and Doi because Weaver suggests a method and system for replacing a BTS in order to prevent a drop call, obtain a quality of signal and reduce a down time of the system.

Regarding claims 8 and 17, Weaver discloses the step of transmitting a list including at least one BTS neighboring the first BTS (Col. 2, lines 24-27).

Regarding claim 9, Weaver discloses the step of transmitting a list including at least one BTS neighboring the first BTS further includes transmitting an updated list including at least one BTS neighboring the first BTS prior to the step of reducing the first signal strength of the first signal (Col. 2, lines 24-27, the updated list is transmitted to the mobile dependent on the direction of the mobiles moving before the base station need to be removed from the system).

***Allowable Subject Matter***

3. Claims 4-5, 13-14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As claims 4-5 and 13-14, the prior arts fails to disclose the step of transmitting a message adapted to be received by a second subscriber unit in the first area to delay attempts to establish communicative coupling with a communication network until the second signal strength of the second signal in the first area is greater than the first signal strength of the first signal in the first area.

As claim 18, the prior arts fails to disclose the controller issues a command to the first BTS to transmit an updated list including at least one BTS neighboring the first BTS in response to a command to remove the first BTS from the communication system.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
2/1/05